

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER VanGUILDER,

Petitioner,

vs

9:07-CV-04

LARRY SEARS,

Respondent.

APPEARANCES:

OF COUNSEL:

CHRISTOPHER VanGUILDER
04-a-5370
Franklin Correctional Facility
P.O. Box 10
Malone, NY 12953

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Respondent
Department of Law
120 Broadway
New York, New York 10271

ASHLYN H. DANNELLY, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

The petitioner, Christopher VanGuilder brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in the above action. By a report recommendation dated January 29, 2008, the Honorable David R. Homer, United States Magistrate Judge, recommended that the petition for a writ of habeas corpus be denied. Petitioner has filed timely objections and the respondent has requested that the report and recommendation

“should, indeed, be denied,” and further, that a certificate of appealability should not be issued.

Based upon a de novo determination of the report and recommendation, including the portions to which petitioner has objected, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1); Rule 10, Rules Governing Section 2254 Cases.

Therefore, it is

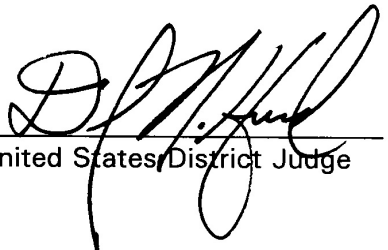
ORDERED that

1. The petition of Christopher VanGuilder is DENIED and DISMISSED in all respects; and

2. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: April 17, 2008
Utica, New York.



United States District Judge